

ORDINANCE NO. _____

1 AN ORDINANCE amending Title 26 of the Lincoln Municipal Code by creating a
2 new Chapter 26.24, Flood Regulations for Existing Urban Area.

3 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

4 Section 1. That Title 26 of the Lincoln Municipal Code be amended by adding a new
5 section numbered 26.24.010 to read as follows:

6 **26.24.010 Definitions.**

7 For the purpose of this chapter, certain terms and words are hereby defined:

8 **100-Year Flood** shall mean the flood having a one percent chance of being equaled or
9 exceeded in any given year.

10 **Base Flood** shall mean the flood having a one percent chance of being equaled or exceeded
11 in any given year.

12 **Basement** shall mean any enclosed area having its floor below grade level on all sides.

13 **Development** shall mean any man-made change to improved or unimproved real estate,
14 including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving,
15 excavation or drilling operations, or storage of equipment or materials.

16 **Existing Urban Area** shall mean those areas inside the corporate limits of the City of
17 Lincoln, as well as those areas outside the corporate limits having a zoning designation other than
18 AG Agriculture and AGR Agricultural Residential, on the effective date of this ordinance.

19 **FEMA** shall mean the Federal Emergency Management Agency.

1 **Flood Insurance Rate Map (FIRM)** shall mean the September 21, 2001 Flood Insurance
2 Rate Map and any revisions thereto, on which FEMA has delineated both the areas of special flood
3 hazards and the risk premium zones applicable to the community.

4 **Flood Insurance Study** shall mean the Flood Insurance Study for Lancaster County,
5 Nebraska and Incorporated Areas published by FEMA in conjunction with the FIRM and containing
6 background data such as base flood discharges and water surface elevations used to prepare the
7 FIRM.

8 **Floodplain** shall mean those lands which are subject to a one percent or greater chance of
9 flooding in any given year as shown on the Flood Insurance Rate Map issued by FEMA for Lancaster
10 County, Nebraska and incorporated areas, as amended. Copies of the said maps shall be on file in
11 the Department of Building and Safety.

12 **Floodproofing** shall mean any combination of structural and nonstructural additions,
13 changes, or adjustments to structures which reduce or eliminate flood damage to real estate or
14 improved real property, water and sanitary facilities, structures and their contents.

15 **Floodway** shall mean the channel of a river or other watercourses and the adjacent land areas
16 that must be reserved in order to discharge the base flood without cumulatively increasing the water
17 surface elevation more than one foot.

18 **Letter of Map Change (LOMC)** shall mean a determination document issued by FEMA
19 that officially revises the FIRM based on updated information, whether improved data or topography
20 changes created by fill placement. Includes Letter of Map Amendment (LOMA), Letter of Map
21 Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-f).

1 **Lowest floor** shall mean the lowest floor of the lowest enclosed area (including basement).

2 An unfinished or flood-resistant enclosure, usable solely for parking of vehicles or building access,
3 in an area other than a basement area is not considered a building's lowest floor; provided that such
4 enclosure is not built so as to render the structure in violation of the applicable non-elevation design
5 requirements of this ordinance.

6 **NAVD** shall mean the North American Vertical Datum of 1988.

7 **Non - substantial improvement** shall mean any improvement that does not meet the
8 definition of substantial improvement, as defined in this section.

9 **Qualified engineer** shall mean a registered professional engineer who, by reason of training
10 and experience, is considered knowledgeable in hydrology and hydraulics and their application to
11 the flood insurance study and has demonstrated competence to the satisfaction of the Director of
12 Public Works and Utilities.

13 **Special Flood Hazard Area** shall mean the land in the floodplain subject to a one percent
14 or greater chance of flooding in any given year.

15 **Start of construction** shall mean either the first placement of permanent construction of a
16 structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction
17 of columns, or any work beyond the stage of excavation, or the placement of a manufactured home
18 on a foundation. Permanent construction does not include land preparation, such as clearing,
19 grading, and filling; nor does it include the installation of streets and/or walkways; nor does it
20 include excavation for a basement, footings, piers or foundations or the erection of temporary forms;
21 nor does it include the installation on the property of accessory buildings, such as garages or sheds
22 not occupied as dwelling units or not as part of the main structure. For a substantial improvement,

1 the actual start of construction shall mean the first alteration of any wall, ceiling, floor, or other
2 structural part of a building, whether or not that alteration affects the external dimension of the
3 building.

4 **Substantial improvement** shall mean any reconstruction, rehabilitation, addition, or other
5 improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of
6 the structure before the start of construction of the improvement. Substantial improvement shall
7 include structures which have incurred substantial damage, regardless of the actual repair work
8 performed. The term shall not, however, include either (i) any project for improvement of a structure
9 to correct existing violations of state or local health, sanitary, or safety code specifications which
10 have been identified by the local code enforcement official and which are the minimum necessary
11 to assure safe living conditions, or (ii) any alteration of a historic structure, provided that the
12 alteration will not preclude the structure's continued designation of a historic structure.

13 **Variance** shall mean a grant of relief from the terms of a floodplain management regulation,
14 this shall be done by Special Permit in accordance with Section 27.52.060 of the Zoning Code.

15 **Violation** shall mean the failure of a structure or other development to be fully compliant
16 with the floodplain management regulations as set forth in this chapter. A structure or other
17 development without the elevation certificate, other certifications, or other evidence of compliance
18 as required is presumed to be in violation until such time as that documentation is provided.

19 Section 2. That Title 26 of the Lincoln Municipal Code be amended by adding a new
20 section numbered 26.24.020 to read as follows:

21 **26.24.020 Development of Land Within Floodplain.**

22 There shall be no platting or subdivision of land allowed by the city within a floodplain
23 unless the following conditions are met:

1 (a) That the development of any land located within the floodplain will be accomplished
2 so as to protect building sites for residential development by raising of the ground elevation to at
3 least one foot above the 100-year flood. The raising of the ground elevation shall be accomplished
4 in such a manner that the general flow and storage of water is not unduly restricted or limited and
5 will not cause flood hazards to other lands and developments, either within the proposed subdivision
6 or otherwise, and that said protection shall be accomplished without creating the need for significant
7 public expenditures for flood control.

8 (b) That the development of any land located within the floodplain will be accomplished
9 so as to protect building sites for non-residential development by raising of the ground elevation to
10 an elevation at least one foot above the 100-year flood or by floodproofing the structure to an
11 elevation at least one foot above the 100-year flood, in accordance with Chapter 27.52, "Flood
12 Regulations for Existing Urban Area," of the Zoning Ordinance.

13 (c) That any proposed use which is located within a floodplain and is subject to flooding
14 shall be limited to such uses as open space, streets, and parking areas on that portion of the land
15 within the floodplain where significant damage to life and property from flooding is most likely to
16 occur. Any use approved to be located on land which is a floodplain shall be approved only after
17 the following factors have been considered and any adverse impacts are mitigated to the satisfaction
18 of the City:

19 (1) The danger to life and property by water which may be backed up or diverted
20 by such obstruction or land use;

21 (2) The danger that the obstruction or land use will be swept downstream to the
22 injury of others;

23 (3) The availability of alternate locations;

1 (4) The ability to construct or alter the obstruction in such a manner as to lessen
2 any danger;

3 (5) The permanence of the obstruction or land use;

4 (6) The anticipated development in the foreseeable future of the land in which the
5 proposed subdivision is to be located which may be affected by the obstruction or land use;

6 (7) The degree to which safe access can be provided through areas that are
7 projected to be flooded during a 100-year flood event.

8 (8) Any additional conditions adopted by the city to ensure proper use of land
9 within the floodplains.

10 (d) That any land within a floodplain from which fill is taken shall be hydrologically
11 designed and maintained to reduce the likelihood of becoming refilled by silt. The subdivider must
12 make arrangements satisfactory to the city binding his successors and assigns, to regrade or remove
13 such silt as is necessary to return any area to its approved design after flooding has occurred. Any
14 land from which fill is taken within a floodplain shall be at a grade that will continue to permit
15 adequate drainage into the stream or watercourse. If a water area is to be maintained within the
16 floodplain, consideration shall be given to the effect the water area may have upon the flooding of
17 both the land within the floodplain and other lands outside of the floodplain.

18 (e) The location, grade, and flood-proofing of all proposed utilities which are to be
19 extended into or through any portion of the floodplain to serve the proposed development shall first
20 be approved by the city, prior to the extension of such utilities into the floodplain area.

21 If the city, at the time of platting, agrees to create special assessment districts for the
22 construction of utilities to serve the subdivision, the subdivider shall remain responsible to pay the
23 entire cost of the necessary construction and necessary flood-proofing of such public utilities when

1 said utilities traverse any land subject to being inundated by flood water in order to serve the land
2 within the proposed subdivision. The subdivider shall also enter into an agreement with the City to
3 prohibit future connections to water mains and wastewater collectors to serve any land still subject
4 to being inundated by flood water.

5 The subdivider shall obtain the approval of the Director of Public Works and Utilities for any
6 modifications in the location or design of the borrow area within the floodplain.

7 Section 3. That Title 26 of the Lincoln Municipal Code be amended by adding a new
8 section numbered 26.24.030 to read as follows:

9 **26.24.030 Information on a Preliminary Plat.**

10 The following additional information shall be included with the preliminary if any part of the
11 subdivision is within the floodplain:

12 (a) All hydrological and grade information in NAVD 1988, including base flood
13 elevation data within Zone A (no base flood elevations determined), which is necessary to determine
14 the frequency and extent that the subdivision is subject to inundation by flood water, except that this
15 shall not apply where the use of the property is not being changed and there are no physical changes
16 on the site which have the potential to increase the flood hazard. When utilizing NGVD based flood
17 elevations from FEMA floodplain maps, 0.50 feet shall be added to NGVD 1929 to obtain NAVD
18 1988, unless a more accurate conversion factor using an established conversion program is
19 demonstrated to the satisfaction of the Director of Public Works and Utilities.

20 (b) All grading and drainage information in conformance with Section 26.15.020(b) of
21 this title.

22 (c) In Zone A (no base flood elevations determined), for subdivisions greater than either
23 five acres or fifty lots, detailed base flood elevation data based on an engineering study performed

1 by a qualified engineer in accordance with FEMA approved methods for generating detailed base
2 flood elevations. This provision shall not apply where the use of the property is not being changed
3 and there are no physical changes on the site which have the potential to increase the flood hazard.

4 (d) The type and extent of the proposed use or development of the land which is located
5 within the floodplain, along with such information as is necessary to determine the effect flood
6 waters will have on such development and use and the effect such development and use may have
7 upon the flood waters. All such information shall show the location of the proposed use, areas of
8 habitation and employment, including the location, size, and floor elevation of any structures, the
9 location and elevation of all parking areas, and the use, location, and elevations of all open land
10 areas.

11 (e) The proposed centerline grade of streets or private roadways located within the
12 floodplain that are necessary to serve the proposed development. The proposed centerline grade
13 shall not be more than one foot below the 50-year flood elevation.

14 (f) The limits of the 100-year floodplain and floodway.

15 (g) The amount of fill material to be brought into the floodplain from outside the
16 floodplain.

17 (h) Information, documentation and certification by a professional engineer or hydrologist
18 demonstrating any grading within the floodway will not result in any increase in the flood level
19 during the occurrence of the base flood discharge.

20 An exception to the above shall be permitted provided the applicant has acquired by
21 land rights purchase, flowage easement, or other legal arrangement the right to increase the flood
22 levels on all affected lands, and provided that before any permit is issued the applicant submits a
23 Federal Emergency Management Agency (FEMA) approved Conditional Letter of Map Revision to

1 the Director of Building and Safety. When such encroachment is completed, a FEMA approved
2 Letter of Map Revision must also be provided by the applicant.

3 Section 4. That Sections 1 through 4 of this ordinance be codified in the Lincoln
4 Municipal Code as Chapter 26.24, Flood Regulations for Existing Urban Areas.

5 Section 5. That this ordinance shall take effect and be in force from and after its
6 passage and publication according to law.

Introduced by:

Approved as to Form & Legality:

City Attorney

Approved this ____ day of _____, 2004:

Mayor